

United States
Circuit Court of Appeals
For the Ninth Circuit.

A. R. TITLOW, as Receiver of the UNITED
STATES NATIONAL BANK OF CEN-
TRALIA, and the UNITED STATES NA-
TIONAL BANK OF CENTRALIA,
Appellants,

VS.

ANNA E. McCORMICK,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Western District of Washington,
Southern Division.

Filed

OCT 6 - 1915

F. D. Monckton,
Clerk.

No. 2653

United States
Circuit Court of Appeals
For the Ninth Circuit.

A. R. TITLOW, as Receiver of the UNITED
STATES NATIONAL BANK OF CEN-
TRALIA, and the UNITED STATES NA-
TIONAL BANK OF CENTRALIA,
Appellants,

vs.

ANNA E. McCORMICK,

Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Western District of Washington,
Southern Division.

INDEX TO THE PRINTED TRANSCRIPT OF RECORD.

[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur. Title heads inserted by the Clerk are enclosed within brackets.]

	Page
Amended Answer to Bill of Complaint.....	16
Assignment of Errors.....	70
Bill of Complaint.....	3
Certificate of Clerk U. S. District Court to Transcript of Record.....	74
Certificate of Comptroller of the Currency Directing Appeal.....	72
Citation on Appeal (Original).....	75
Decree.....	26

EXHIBITS:

Defendant's Exhibit "B" — Remittance Sheets of the Bank of California to the United States National Bank of Cen- tralia, from April 14, 1914, to April 28, 1914, Both Inclusive.....	37
Defendant's Exhibit "E" — Remittance Sheet.....	58
Defendant's Exhibit "F"—Remittance Sheet.....	60
Defendant's Exhibit "F"—Remittance Sheet.....	62

Index.	Page
EXHIBITS—Continued:	
Exhibit “A”—to Complaint.....	11
Exhibit No. 3—Check.....	31
Exhibit No. 4—Check.....	32
Exhibit No. 5—Check.....	33
Exhibit No. 6—Check.....	33
Exhibit No. 7—Check.....	34
Complainant’s Exhibit No. 8—Tabulation of Lowest Amount of Cash and Cash Items in Vaults.....	51
Plaintiff’s Exhibit No. 9—Tabulation of Amount of Money in Vaults.....	67
Names and Addresses of Counsel.....	1
Notice of Filing Defendant’s Proposed State- ment of Evidence...	73
Order Allowing Appeal.....	71
Order Settling Statement of Evidence.....	69
Petition for Appeal.....	69
Praecipe of the Defendant for Record.....	1
Statement of Testimony.....	28
Stipulation for Substitution of Parties Defend- ant and Solicitors for Defendant.....	25
TESTIMONY ON BEHALF OF PLAIN- TIF:	
DYSART, GEORGE.....	28
FRYE, GEORGE B.....	53
HAYDEN, ELMER M.....	29
HILL, FRANK A.....	45
Recalled.....	51
JACKSON, SAMUEL M.....	34

Index.

Page

TESTIMONY ON BEHALF OF PLAIN-
TIFF—Continued:

STACY, RALPH S..... 48

TITLOW, A. R..... 68

TESTIMONY ON BEHALF OF DEFEND-
ANT:

HILL, FRANK A..... 57

Recalled..... 57

Names and Addresses of Counsel.

FREDERICK BAUSMAN, Esquire, ROBERT P. OLDHAM, Esquire, and ROBERT C. GOODALE, Esquire, #1008-16 Hoge Building, Seattle, Washington,

Solicitors for the Appellants.

ELMER M. HAYDEN, Esquire, MAURICE A. LANGHORNE, Esquire, and FREDERIC G. METZGER, Esquire, Tacoma Building, Tacoma, Washington,

Solicitors for the Appellee. [1*]

In the District Court of the United States for the Western District of Washington, Southern Division.

IN EQUITY—No. —.

ANNA E. McCORMICK,

Plaintiff,

vs.

A. R. TITLOW, Receiver of the UNITED STATES NATIONAL BANK OF CENTRALIA, and the UNITED STATES NATIONAL BANK OF CENTRLIA,

Defendants.

Praeceptum of the Defendants for Record.

To Frank L. Crosby, Clerk of said Court:

Kindly prepare, certify and transmit to the clerk of the Circuit Court of Appeals for the Ninth Circuit at San Francisco, a typewritten transcript of

*Page-number appearing at foot of page of certified Transcript of Record.

the record upon appeal in the above-entitled cause, containing the following portions of the record in the above-entitled cause, to wit: (omitting all captions, endorsements, verifications, etc., excepting file-marks.)

1. Complaint.
2. Amended Answer.
3. Stipulation for Substitution of Parties and Order Allowing same.
4. Decree.
5. Statement of Evidence and Order Approving Same.
6. Petition for Appeal.
7. Assignment of Errors.
8. Order Allowing Appeal.
10. Praecept of Defendants for Record.
11. Certificate of Comptroller of Currency Directing Appeal.
12. Notice of Filing Defendants Proposed Statement of Testimony. [2]

Dated August 23, 1915.

BAUSMAN, OLDHAM & GOODALE,
Attorneys for Defendants.

Copy of the within praecipe received and service acknowledged this 23d day of August, 1915.

HAYDEN, LANGHORNE & METZGER,
Attorneys for Plaintiff.

(Filed Aug. 23, 1915.) [3]

[Title of Court and Cause.]

Bill of Complaint.

To the Honorable, the Judges of the District Court
of the United States for the Western District of
Washington, Sitting in Equity:

Anna E. McCormick, a resident of Tacoma, in the
Western District of Washington, Southern Division,
brings this her Bill of Complaint against Clinton A.
Snowden, as Receiver of The United States National
Bank of Centralia, a national banking corporation
organized and existing under and by virtue of the
laws of the United States relative to national banks,
with its principal place of business at Centralia, in
the Western District of Washington, Southern Divi-
sion, and against said The United States National
Bank of Centralia, and thereupon your orator com-
plains and alleges:

I.

That at all times hereinafter mentioned The
United States National Bank of Centralia was and is
a corporation organized and existing under and by
virtue of the laws of the United States with its prin-
cipal place of business at Centralia, Lewis County,
Washington; that at all times hereinafter mentioned
The United States National Bank of Centralia con-
ducted a general banking business as a national bank
at [4] Centralia, until the 21st day of September,
1914, at which time the said bank became insolvent
and closed its doors, and thereafter and on or about
the 21st day of September, 1914, Francis A. Chap-
man was appointed by the Comptroller of Currency

as Receiver of said bank and remained such Receiver until the 16th day of November, 1914, at which time the defendant Clinton A. Snowden was appointed by the Comptroller of Currency as Receiver of said bank, and ever since has been and now is the duly appointed, qualified and acting Receiver of said bank, and that at all times since the said bank closed its doors on September 21st, 1914, as hereinbefore alleged the said bank has remained closed, being in an insolvent condition, and the said receivers have been engaged in liquidating or attempting to liquidate the affairs of said banking institution.

II.

That heretofore and on or about the 22d day of August, 1913, the complainant left with the said The United States National Bank of Centralia, certain warrants owned by her issued by School District No. 9 being of Lewis County, Washington, said School District No. 9 being a school district duly organized under the laws of the State of Washington; said warrants so left by complainant for collection being fully described in a receipt issued by The United States National Bank of Centralia under that date, copy of which receipt is attached to this Bill of Complaint marked Exhibit "A."

III.

That thereafter on the 31st day of January, 1914, the said School District No. 9 called certain of the warrants [5] so left with The United States Na-

tional Bank of Centralia for collection, to wit:

No. 3231 for \$.80

No. 3297 “ 500.00

No. 3298 “ 500.00

No. 3299 “ 500.00

for payment and said warrants were presented for payment by The United States National Bank of Centralia to the County Treasurer of Lewis County and paid on the 4th day of February, 1914, the amount being then paid by the County Treasurer of Lewis County to The United States National Bank of Centralia, in redemption of said warrants being the sum of SIXTEEN HUNDRED FIFTY NINE and 54/100 (\$1659.54) DOLLARS; that The United States National Bank of Centralia received the money for said warrants so cashed by it, but failed to pay over said money or any part thereof to this complainant; that of the interest amounting to ONE HUNDRED FIFTY EIGHT and 74/100 (\$158.74) DOLLARS so collected by the said bank from said warrants, The United States Bank of Centralia was entitled to retain the sum of ONE HUNDRED ELEVEN and 18/100 (\$111.18) DOLLARS, being the interest accrued up to August 22d, 1913; the balance of the interest amounting to FORTY SEVEN and 56/100 (\$47.56) DOLLARS was the property of the complainant, so that the amount which the said bank should have paid over to the complainant was the sum of FIFTEEN HUNDRED FORTY EIGHT and 36/100 (\$1548.36) DOLLARS.

IV.

That on or about the 11th day of April, 1914, the

said School District No. 9 called warrants then outstanding and included within the list of warrants left by the complainant with The United States National Bank of Centralia [6] for collection Nos. 3304 to 4029, both inclusive, in the principal sum of THIRTEEN THOUSAND ONE HUNDRED THREE and 14/100 (\$13,103.14) DOLLARS; that on the 14th day of April, 1914, The United States National Bank of Centralia presented said warrants to the County Treasurer of Lewis County for payment, and on that date the same were redeemed and paid by the County Treasurer to The United States National Bank of Centralia by the payment of the sum of FOURTEEN THOUSAND THREE HUNDRED THIRTY-SEVEN and 24/100 (\$14,337.24) DOLLARS, which sum of money was paid over by the County Treasurer to The United States National Bank of Centralia on said date; that of said money so paid over the sum of \$1,229.22 was interest, of which interest The United States National Bank of Centralia was entitled to retain interest on said warrants which accrued down to the 22d day of August, to wit, the sum of \$635.09, and the balance of the interest so collected belonged to and was the property of this complainant; that no part of said money so collected by The United States National Bank of Centralia was ever paid by said bank unto said complainant.

V.

That your orator is informed that The United States National Bank of Centralia, instead of keeping said money so collected separate and apart from

the moneys of The United States National Bank of Centralia, and instead of paying said moneys over to the complainant, mingled said moneys with the funds of The United States National Bank of Centralia; that at all times subsequent to the collection of said warrants paid February 4, 1914, down to the appointment of a Receiver for The United States National Bank of Centralia, the said bank had on hand moneys more than equal to the amount of money [7] so collected and belonging to the complainant, as your orator is informed and believes, and at all times since the 14th day of April, 1914, The United States National Bank of Centralia had on hand moneys more than equal to the moneys then paid The United States National Bank of Centralia in redemption of said warrants by the County Treasurer of Lewis County in addition to the moneys paid The United States National Bank of Centralia on February 4, 1914, as hereinbefore alleged; that when the said bank closed in September, 1914, and when the Receiver was appointed by the Comptroller of Currency on the 21st day of September, 1914, there was cash on hand amounting to about \$29,000.00, and complainant alleges on information and belief that not less than \$29,000.00 in money was kept on hand by the said bank at all times subsequent to the collection of said warrants so paid on the 4th day of February, 1914, and came into the hands of the receiver appointed as before alleged, and ever since remained and now is on hand.

VI.

That your orator having employed The United

States National Bank of Centralia as its agent for the collection of said warrants fully relied upon said bank to make said collection, and, therefore, your orator took no further steps to ascertain when the warrants might be called or paid and did not know that the warrants had been called or paid until the said bank ceased to do business in September, 1914.

VII.

That the defendant has refused to turn over said money or any part thereof unto complainant, though proper demand has been made therefor. [8]

VIII.

That among the warrants so turned over by the complainant to The United States National Bank for collection were the following school warrants issued by said School District No. 9 of Lewis County:

No. 4118	for \$	3.00
No. 4121	"	5.60
No. 4124	"	150.00
No. 4130	"	27.50
No. 4139	"	7.45
No. 4140	"	6.35
No. 4143	"	13.40

That said warrants were by The United States National Bank negotiated, sold or pledged to some person, corporation or firm unknown to your orator, and a sum received by the bank therefor at least equal to the face value thereof, to wit, the sum of \$213.30; that the time when said warrants were so pledged or negotiated by the bank is not known to your orator; that such sum of money, at least equal to the face value of said warrants, was as your orator

is informed and believes, mingled with the other moneys in the hands of the bank and from said time down to the appointment of a Receiver for said bank the said bank had on hands, as your orator alleges on information and belief, moneys more than equal to the amount of moneys so received from the said warrants in addition to moneys more than equal to the amounts so paid to said bank in redemption of the warrants cashed as hereinbefore alleged.

IX.

That complainant has no plain, adequate and complete remedy at law.

X.

That the amount of this controversy exceeds \$3,000.00 exclusive of interest and costs. [9]

WHEREFORE, and forasmuch as your orator is remediless in the premises according to the strict rules of common law and can have relief only in a court of equity where matters of this kind are properly cognizable and your orator prays equitable relief as follows:

1st. That the defendant Clinton A. Snowden as Receiver of The United States National Bank of Centralia and the defendant The United States National Bank of Centralia may be required to make answer unto all and singular the matters hereinbefore stated and charged as fully and particularly as if they were herein expressly and particularly interrogated concerning the same, but not under oath, answer under oath being hereby waived.

2d. That the Court may decree that the defendant Clinton A. Snowden as Receiver of The United

States National Bank of Centralia holds in trust for the complainant the sum of FIFTEEN THOUSAND TWO HUNDRED FORTY-FIVE and 63/100 (\$15,245.63) DOLLARS, and that said trust is not destroyed or impaired by the fact (if it is a fact) that the moneys so collected as herein alleged may have been intermingled with other funds of The United States National Bank and that the rights of the complainant in and to said funds are paramount and superior to the rights and claims of any other person whomsoever.

3d. That the defendant may be required to pay over to the complainant the said trust moneys.

4th. That pending this suit a writ of injunction may issue out of and under the seal of this Honorable Court directing, enjoining and restraining the defendant [10] Clinton A. Snowden as Receiver from paying out the moneys so held in trust for this complainant or any of it, or any moneys except moneys in excess of the amount of this claim; or from transmitting to the Comptroller of the Currency any moneys he may have, or may collect, except moneys in excess of the amount of complainant's claim.

5th. That the complainant may have such other and further relief as the Court may deem equitable.

May it please your Honors to grant unto your orator not only a writ of injunction conformable to the prayer hereof, but also a writ of subpoena directed to the said defendant Clinton A. Snowden, as such Receiver, and said The United States National Bank of Centralia, commanding them at a certain

time and under a certain penalty to be therein specified, to be and appear before this Honorable Court then and there to answer the premises and to abide by the order and decree of the Court herein and that they may appear herein according to law.

ANNA E. McCORMICK,
By M. A. LANGHORNE,
F. D. METZGER,
E. M. HAYDEN,
Her Solicitors.

United States of America,
District of Washington,—ss.

Anna E. McCormick, being first duly sworn, says that she is the complainant in this suit; that she has read the foregoing bill of complaint, knows the contents thereof; that the allegations therein contained are true to her knowledge, except as to the matters therein stated to be alleged on information and belief, and as to those matters she is informed and believes the same to be true.

[Seal] ANNA E. McCORMICK.

SUBSCRIBED and sworn to before me this 22 day of December, 1914.

E. M. HAYDEN,
Notary Public in and for the State of Washington.
[11]

Exhibit "A" (to Complaint).

Tacoma, Wash., Aug. 22, 1913.

RECEIVED from Mrs. Anna E. McCormick for collection, the following warrants issued by School District No. 9, Lewis County, Washington.

Number.	Amount.	Number.	Amount.
3297	\$500.00	3477	\$ 85.00
3231	.80	3479	85.00
3298	500.00	3480	80.00
3299	500.00	3481	80.00
3304	500.00	3482	75.00
3305	236.33	3484	166.67
3306	166.67	3489	56.70
3314	4.30	3500	49.10
3317	194.01	3501	63.00
3322	166.67	3506	20.00
3326	3.00	3508	229.62
3327	12.50	3511	16.60
3329	10.00	3512	4.88
3332	4.50	3516	6.60
3333	80.00	3517	1.40
3345	6.80	3518	4.65
3350	40.00	3520	361.04
3351	31.02	3521	5.00
3353	40.00	3522	10.05
3355	90.00	3524	42.61
3356	100.00	3525	40.00
3357	80.00	3528	13.72
3359	85.00	3532	100.00
3360	85.00	3534	70.00
3361	80.00	3538	70.00
3363	80.00	3539	75.00
3364	80.00	3540	48.75
3368	75.00	3543	60.00
3369	70.00	3544	60.00
3377	100.00	3548	75.00
3388	60.00	3549	70.00

Number.	Amount.	Number.	Amount.
3392	65.00	3552	70.00
3393	75.00	3559	65.00
3404	50.00	3560	75.00
3413	34.70	3572	80.00
3415	1.80	3573	85.00
3416	5.00	3575	80.00
3421	11.70	3576	75.00
3422	10.50	3578	166.67
3427	12.00	3583	70.00
3437	12.65	3584	55.00
3444	60.00	3591	3.75
3447	100.00	3597	6.27
3449	70.00	3599	15.90
3452	70.00	3601	1.00
3456	75.00	3603	20.00
3457	70.00	3604	134.45
3460	70.00	3606	11.75
3465	65.00	3607	5.15
3466	75.00	3609	3.17
3470	90.00	3617	75.00
[12]			
3472	\$ 90.00	3618	\$ 70.00
3473	100.00	3624	75.00
3474	80.00	3628	70.00
3476	85.00	3633	75.00
3634	65.00	3833	6.11
3636	75.00	3834	16.79
3638	60.00	3839	131.30
3643	75.00	3842	75.00
3648	90.00	3843	60.00
3650	90.00	3845	63.75

Number.	Amount.	Number.	Amount.
3651	60.00	3846	63.75
3652	80.00	3847	60.00
3654	85.00	3844	63.75
3655	85.00	3849	60.00
3656	80.00	3850	60.00
3658	80.00	3853	75.00
3659	80.00	3854	56.25
3662	166.67	3855	52.50
3667	70.00	3860	56.25
3668	55.00	3861	45.00
3673	12.24	3862	75.00
3676	20.15	3869	56.25
3677	8.40	3874	45.00
3678	5.28	3878	48.75
3679	17.80	3880	56.25
3680	120.50	3884	67.50
3681	12.05	3885	52.50
3684	4.00	3944	65.00
3686	3.10	3951	13.15
3699	90.00	3980	101.14
3700	100.00	3986	40.00
3701	80.00	4029	80.00
3704	85.00	4048	10.00
3705	80.00	4051	12.05
3707	80.00	4053	7.92
3708	80.00	4056	6.63
3709	75.00	4058	14.55
3713	70.00	4059	6.44
3720	60.00	4060	2.80
3733	60.00	4061	7.15
3738	65.00	4067	2.88

Number.	Amount.	Number.	Amount.
3745	11.65	4068	1.05
3746	3.96	4069	48.64
3748	4.75	4071	5.20
3755	104.50	4074	75.00
3758	9.46	4078	63.75
3759	18.25	4079	60.00
3762	1.90	4086	56.25
3763	17.15	4091	48.75
3767	166.67	4093	56.25
3773	55.00	4097	45.00
3778	90.00	4098	45.00
3779	100.00	4103	52.50
3780	80.00	4108	56.25
3782	85.00	4118	3.00
3783	85.00	4121	5.60
3784	80.00	4124	150.00
3786	80.00	4130	27.50
3787	80.00	4139	7.45
3792	70.00	4140	6.35
3797	70.00	4143	13.40

[13]

3799	\$ 60.00
3802	70.00
3806	70.00
3807	75.00
3813	60.00
3821	75.00

Number.	Amount.	Number.	Amount.
3826	23.65		
3828	11.25		
3831	6.00		

THE UNITED STATES NATIONAL BANK,
CENTRALIA, WASH.

C. S. GILCHRIST,
Vice-president.

(Filed Dec.22,1914.) [14]

Amended Answer to Bill of Complaint.

Come now the above-entitled defendants A. R. Titlow, as Receiver of the United States National Bank of Centralia, Lewis County, Washington, and the United States National Bank of Centralia, Washington, and for answer to the bill of complaint herein allege and say as follows, to wit:

I.

That they admit the allegations, statements and averments found and made in paragraph I and II of complainant's bill of complaint.

II.

As to paragraph III thereof defendants admit that on or about the 4th day of February, 1914, it received a check upon a certain bank drawn by the Country Treasurer of Lewis County, Washington, for a sum covering the amount therein mentioned, which included payment of the warrants therein mentioned, together with other warrants, said check being for more than the sum mentioned in said paragraph, but it received no money on account of said check, but whether said warrants belonged to said plaintiff these defendants have no knowledge

and not sufficient information to form a belief as to the same. Defendants admit that of such warrants defendant United States National Bank was entitled to all interest upon said warrants up to and including the 22d day of August, 1913. That said check drawn by the County Treasurer of Lewis County, Washington, was drawn against Coffman, Dobson & Company, bankers of Chehalis, Lewis County, Washington. If it is true, as in said bill of complaint alleged, that \$158.74 was interest, that said United States National Bank would be entitled and was entitled at said time to the credit of \$111.18 of said amount of [15] interest as its credit. Defendants deny each and every other allegation in said paragraph contained.

III.

As to paragraph IV, these defendants deny that the sum of \$14,337.24 or any part thereof was paid to the United States National Bank on April 14, 1914, or at any other time, and allege the fact to be that said sum, or any part thereof, never in fact came into the said United States National Bank of Centralia, but that it received only a credit in other banking institutions in the State of Washington as a result of the transaction mentioned in paragraph IV. And further *answer* said paragraph of the complaint these defendants demand the strictest proof of the allegations, statements and averments in said paragraph contained.

IV.

For answer to paragraph V thereof these defendants allege that they have no knowledge and not suffi-

cient information to form a belief as to the allegations therein contained, therefore they deny each and every allegation therein contained. And further answering said paragraph of the complaint these defendants allege on information and belief that at no time, either at the time of the alleged receiving of checks from the Treasurer of Lewis County, Washington, or at any other time thereafter, was there ever any moneys come into the said United States National Bank derived from the warrants alleged to be the warrants of said complainant herein, but the only thing that said United States Bank received, if it received anything at all from said alleged source, was credit in various banking institutions throughout the State of Washington, and that said credits and each of them in said other banking institutions were greater in [16] each instance than the amount mentioned and set forth in said complainant's bill of complaint, and that thereafter the said credits so given to said United States National Bank in other banking institutions of the State of Washington and before the insolvency of said United States National Bank on the 21st day of September, 1914, were entirely exhausted and wiped out. And further answering said paragraph of the complaint these defendants allege, upon information and belief, that not only was there absence of money coming from the source mentioned in said complaint into said United States National Bank, but all the moneys in said bank at said time were moneys come from other sources, and all moneys that have been in said bank at all times since the dates therein men-

tioned and alleged said bank receiving from said County Treasurer, has been moneys deposited by other persons, individuals and corporations in said bank and collected from other sources entirely than from the sources in said complaint mentioned.

V.

As to paragraph VI thereof these defendants say that they are without knowledge as to any of the allegations, averments and statements therein made. And further answering said paragraph of said complaint these defendants allege that if there was such employment as therein alleged that said contract must have been a contract without consideration moving to said United States National Bank, and it was the duty of the said complainant to look after in a reasonably careful and diligent manner such property as alleged was entrusted to said bank or any one of its officers, and that the complainant has been guilty of such laches in respect to the ascertainment and prosecution of her alleged claim as to disentitle her to relief in this court. [17]

VI.

As to paragraph VII thereof these defendants admit that a demand has been made upon defendants herein and that said defendants have not paid over to said complainant any such moneys as therein alleged or any other money on account of the allegations and demands made in said complaint. And further answering said paragraph these defendants allege that defendants do not now have and never have had at any time any moneys belonging to the said complainant.

VII.

As to paragraph VIII thereof these defendants say that they are without knowledge as to any of the allegations, statements and averments therein made. And further answering said paragraph these defendants allege that if said warrants belonged to said complainant as therein mentioned, and if they were left with the United States National Bank, and were sold or pledged by it, no moneys arising from such transfer, if any, came into the said United States National Bank at the time in said paragraph stated, or any other time so far as these defendants know, and that all of the moneys that have been in said bank at and since said time has been money that came into said bank from other sources and particularly from depositors at and after said time therein mentioned.

IX.

As to paragraph IX of said complaint, these defendants deny each and every allegation therein contained.

X.

Further answering the bill of complaint defendants allege that the following suits have been filed in this court against these defendants: [18]

1. A suit entitled *The City of Centralia, a municipal corporation, complainant, vs. The United States National Bank, et al., Defendants in Equity*,—No. 25-E, in which the complainant seeks to establish a preferred claim against the assets in the hands of the defendant receiver in the sum of \$44,-553.09, on the ground that said sum is a trust fund

in the hands of the defendants in favor of the complainant.

2. A suit entitled Continental & Commercial National Bank of Chicago, a corporation, complainant, vs. A. R. Titlow, as Receiver of the United States National Bank, et al., Defendants; in Equity—No. 38-E, in which the complainant seeks to establish a preferred claim against the assets of the United States National Bank in the hands of the defendants in the sum of \$5,166.67, on the ground that this sum is held by the defendants for the complainant as a trust fund.

3. A suit entitled G. C. Frisbie, Plaintiff, vs. The United States National Bank of Centralia, Washington, and A. R. Titlow, Receiver, in Equity—No. 35-E, in which the plaintiff seeks to establish a preferred claim against the assets of the United States National Bank in the hands of the defendants herein in the principal sum of \$5,000, on the ground that this sum constitutes a trust fund in the hands of the United States National Bank and its Receiver in favor of plaintiff.

4. A suit entitled Frank P. McKinney as Receiver of Olympia Bank & Trust Company, Complainant, vs. A. R. Titlow, as Receiver of the United States National Bank of Centralia; in Equity—No. 32, in which the complainant therein seeks to establish a preferred claim in the sum of \$36,500, on the ground that said sum is held by the United States National Bank and its receiver as a trust fund for the benefit of the complainant therein. [19]

5. A suit entitled Nicholas V. Petrinovich, Plain-

tiff, vs. A. R. Titlow, Receiver of the United States National Bank of Centralia, Washington, Defendant; in Equity—No. 37-E, in which the plaintiff seeks to establish a preferred claim against the assets of the United States National Bank in the hands of its receiver in the sum of \$150.00, on the ground that said sum is held by the United States National Bank and its receiver as a trust fund for the benefit of the complainant therein.

The five cases hereinbefore mentioned in this paragraph are all pending and at issue in this court.

6. A suit entitled John E. Sundquist, Plaintiff, vs. Clinton A. Snowden, Receiver of the United States National Bank, et al, Defendants, No. 1693, seeks to establish a preferred claim against the assets of the United States of the United States National Bank in the hands of its receiver in the sum of \$1296.00, on the ground that this sum was held by the United States National Bank and its receiver as a trust fund for the benefit of the plaintiff therein; that a decree was entered therein in favor of the plaintiff for that amount on the 15th day of February, 1915, from which decree an appeal will be duly taken by the defendant receiver.

7. A suit entitled George R. Wilson and wife vs. Clinton A. Snowden, as receiver of the United States National Bank; in Equity—No. 21-E, in which the plaintiffs seek to establish a preferred claim against the assets of the United States National Bank in the hands of its receiver in the sum of \$1500, on the ground that this sum is held by the defendant bank and its receiver as a trust fund for the benefit of the

plaintiffs therein. A decision has been filed by this Court denying the plaintiff's right to relief in that case, but no formal judgment has been entered and the defendants herein are without knowledge as to whether an appeal will be taken. [20]

8. The defendants are informed and believe that other suits for the purpose of establishing the right to preferred claims against the assets of the United States National Bank are now contemplated by other persons, and that such suits will be brought; but as to the amount of such claims the defendants are without knowledge.

Further answering the defendants say that on September 21, 1914, when the United States National Bank was closed and a Receiver appointed therefor, there was in cash on hand in its vaults the sum of approximately \$27,000 and no more. That at a certain time prior thereto and subsequent to the transactions mentioned in the complaint herein, the cash on hand did not exceed the sum of about \$22,000.

WHEREFORE, these defendants having fully answered herein to the best of their knowledge, information and belief, and the premises being fully considered, they pray this Honorable Court as follows:

1. That the said complainant, Anna E. McCormick, take nothing against these defendants or either of them, and that her bill of complaint herein be dismissed.

2. That the said A. R. Titlow, as Receiver of the United States National Bank of Centralia, Lewis County, Washington, be not declared and held to

hold in trust for complainant any sum of money whatsoever, and that defendants be not required to pay to said complainant any moneys whatsoever under her said claim herein.

3. That if, upon strict proof before this Honorable Court, it is found that said complainant is entitled to any relief against these respondents, or either of them, that she be required, under the rules and practice of this Court and of the [21] Treasury Department of the United States, to file her claim with said A. R. Titlow, Receiver of said United States National Bank of Centralia, and have the same allowed or disallowed according to said rules and practice, but not as a preferred claim or a trust of any kind or nature whatever.

4. That there be no injunction issued against these defendants, or either of them, from interfering or attempting to interfere with the termination of said trust, and particularly that no such restraining order or injunction be issued against your defendant, A. R. Titlow, Receiver of said United States National Bank of Centralia, in paying or attempting to pay any dividends to creditors and distribution under a dividend declared by the Comptroller of the Currency of the United States under such Treasury Department.

5. That if the Court shall find that the defendants, by reason of the transactions set forth in the complaint, hold the sum demanded in the complaint, or any part thereof, in trust for complainant, the Court shall not enter as against the defendants a decree in favor of complainant for the full amount of

such trust fund, but only for such proportion thereof as complainant may be entitled to out of the sum of \$22,000.00 mentioned in paragraph X hereof, ratably with all other claims which may be established as preferred claims against the assets of The United States National Bank in the hands of its Receiver.

6. That these defendants and each of them have judgment for their costs and disbursements in this action and such other and further relief as to the Court may seem meet and equitable upon the facts of this case.

BAUSMAN, OLDHAM & GOODALE,
Solicitors for Defendants.

(Verified.)

(Filed June 22, 1915.) [22]

Stipulation for Substitution of Parties Defendant and Solicitors for Defendant.

It appearing that Clinton A. Snowden resigned from the receivership of the United States National Bank of Centralia on or about March 1, 1915, and that A. R. Titlow formerly solicitor for the Receiver, was on March 1, 1915, duly appointed by the Comptroller of the Currency, Receiver of the United States National Bank of Centralia, it is stipulated between the parties hereto that A. R. Titlow be and he is hereby substituted as a party defendant in this cause in the place and stead of Clinton A. Snowden, and that Bausman, Oldham & Goodale are substituted for A. R. Titlow as the solicitors for the Receiver and for the bank and that an order making

such substitution as of the date of March 1, 1915, may be entered.

Dated this 5 day of August, 1915.

HAYDEN, LANGHORNE & METZGER,

Solicitors for Complainant.

BAUSMAN, OLDHAM & GOODALE,

Solicitors for the Receiver and for the United States
National Bank.

It is so ordered.

Done in open court this 23d day of August, 1915.

EDWARD E. CUSHMAN,

Judge.

(Filed Aug. 23, 1915.) [23]

[Title of Court and Cause.]

Decree.

This cause came on to be finally heard on the 22d day of June, 1915, Hayden, Langhorne & Metzger appearing as solicitors for the complainant and Bausman, Oldham & Goodale appearing as solicitors for the defendant.

After introduction of the testimony, both oral and documentary, and after argument of counsel, the Court took said cause under consideration until July 15th, 1915, at which time it filed a written opinion granting to complainant a portion of the relief asked for in the complaint, all of which more fully appears by a reference to the opinion on file herein; and it appearing from the proofs in said case that there came into the hands of the United States National Bank of Centralia of the moneys of the complainant

the sum of \$15,249.55, of which amount the complainant was entitled to a preference in the sum of \$10,054.69.

WHEREFORE, on motion of counsel for complainant, IT IS NOW ORDERED, ADJUDGED AND DECREED, and this does [24] ORDER, ADJUDGE AND DECREE that the complainant do have and recover judgment against A. R. Titlow, as receiver of the United States National Bank of Centralia, Washington, in the sum of \$15,249.55, and that out of that amount the said complainant is entitled to preference to be paid in full in the sum of \$10,054.69, and for allowance of the balance, viz., \$5,195.55 as a common creditor of the United States National Bank of Centralia.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the defendant A. R. Titlow, as Receiver of the United States National Bank of Centralia, pay to the said complainant the said sum of \$10,054.69 allowed as a preference out of any moneys he may now have on hand that came into his possession at the time of the closing of the doors of the United States National Bank of Centralia; or in the event that all of the moneys that were then on hand have been disbursed, that he pay to complainant said amount of any other moneys that he may now have on hand or that may hereafter come into his hands as receiver of the said United States National Bank of Centralia.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the said receiver pay to complainant the amount of whatever dividend may be

due her on the said sum of \$5,195.55 as a common claim against the said United States National Bank of Centralia.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, and this does order, adjudge and decree that the said defendant A. R. Titlow, as Receiver of the United States National Bank of Centralia, reserve out of any moneys that may now be in his hands or that may hereafter come into his hands a sum sufficient to pay said complainant said sum of \$10,054.69 in full of complainant's said claim before declaring any dividends and making payment to [25] the common creditors of The United States National Bank of Centralia.

To all of which counsel for defendant excepted.

Done in open court this 2d day of August, 1915.

EDWARD E. CUSHMAN,

District Judge.

(Filed Aug. 2, 1915.) [26]

Statement of Testimony.

[Testimony of George Dysart, for Plaintiff.]

GEORGE DYSART was called as a witness on behalf of the plaintiff and testified as follows:

That he was an attorney at law, lived at Centralia, Washington, was a director and second vice-president of the United States National Bank of Centralia prior to its failure on September 21, 1915. The other officers of that bank were Charles Gilchrist, President; C. S. Gilchrist, First Vice-president and Manager; J. W. Daubney, Cashier; Ross

(Testimony of George Dysart.)

W. Daubney, Assistant Cashier; that C. S. Gilchrist, the Vice-president and Manager, had active charge of the affairs of the bank ever since its organization in May, 1907. The directors of the bank were J. W. Vaness, Charles Gilchrist, C. S. Gilchrist, J. W. Daubney, and the witness; that these directors knew from time to time that Mr. Gilchrist was taking various securities for collection.

Plaintiff then introduced in evidence a receipt of the United States National Bank under date of August 22, 1913, for collection, of certain warrants issued by School District No. 9, Lewis County, Washington, which receipt is signed by the United States National Bank of Centralia, Washington, by C. S. Gilchrist, its vice-president, the warrants enumerated in this receipt being identical with the exhibit "A" attached to the bill of complaint (Plaintiff's Exhibit No. 1.) [27]

[Testimony of Elmer M. Hayden, for Plaintiff.]

ELMER M. HAYDEN was then called as a witness on behalf of plaintiff and testified as follows:

That he was a lawyer, lived in Tacoma, was acquainted with Mrs. McCormick, and was her attorney on August 16, 1913. That Mr. Daubney called his attention to the fact that the bank had some warrants of School District No. 9, Lewis County, and Hayden suggested that if Daubney would write him concerning these warrants, that he would find out what he could buy them at; that Mrs. McCormick had funds and if they turned out to be a good investment, she might buy them. The outcome of these ne-

(Testimony of Elmer M. Hayden.)

gotiations was that Mrs. McCormick bought the warrants.

Plaintiff then introduced in evidence a letter from J. W. Daubney relative to the sale of the warrants to Mrs. McCormick. On cross-examination the witness testified that the result of the transactions between the bank and Mrs. McCormick was that she purchased the warrants from the bank and that she then returned them to the bank for collection. It was admitted that a check of the Treasurer of Lewis County, Washington, for \$1747.04, drawn to the order of the United States National Bank of Centralia, dated February 4, 1914, was in payment of the warrants set forth in the third paragraph of the plaintiff's bill of complaint, together with a warrant of \$87.50, which was the property of the bank. It was further admitted that other four checks of similar character for \$1,765.06, \$3,598.00, \$4,061.77, and \$4,912.41, aggregating \$14,337.24, all drawn by the Treasurer of Lewis County, to the Order of the United States National Bank, were given in payment of warrants Nos. 3304 to 4029, both inclusive, as set forth in the fourth paragraph of the complaint, these checks representing the face of the various warrants and interest to the date of call. These five checks, as herein enumerated, were thereupon introduced in evidence by the plaintiff as exhibits 3, 4, 5, 6 and 7.

Exhibit No. 3—Check.

No. 1083.

Office of County Treasurer.

LEWIS COUNTY,

State of Washington.

Chehalis, Wash.

4/14, 1914.

Pay to the order of UNITED STATES NATIONAL BANK OF CENTRALIA \$4061.77, Four Thousand Sixty One Dollars Seventy Seven Cents.

B. F. ARNOLD,

Treasurer.

To the CHEHALIS NATIONAL BANK,

Chehalis, Wash.

98-61

Endorsed as follows:

Pay to the order of any Bank, Banker or Trust Co.,

Apr. 16, 1914.

THE BANK OF CALIFORNIA.

34-8 National Association. 34-3

Tacoma, Wash.

S. M. JACKSON, Manager.

Pay to the order of BANK OF CALIFORNIA,
N. A.

All prior endorsements guaranteed.

UNITED STATES NATIONAL BANK.

98-43 Centralia, Wash. 98-43

J. W. DAUBNEY, Cashier.

Pay Yourselfs.

COFFMAN, DOBSON & CO., Bankers.

98-59 Chehalis, Wash. 98-59

Exhibit No. 4—Check.

No. 1082.

Office of County Treasurer.

LEWIS COUNTY,

State of Washington.

Chehalis, Wash.

4/14, 1914.

Pay to the order of UNITED STATES NATIONAL BANK OF CENTRALIA, \$4,912.41,
 Forty Nine Hundred *Dollars Forty* One Cents.

B. F. ARNOLD,

Treasurer.

To the CHEHALIS NATIONAL BANK,

Chehalis, Wash.

98-61

Endorsed as follows:

Pay to the order of any Bank, Banker or Trust Co.,

Apr. 16, 1914.

THE BANK OF CALIFORNIA.

34-3 National Association. 34-3

Tacoma, Wash.

S. M. JACKSON, Manager.

Pay to the order of BANK OF CALIFORNIA,
 N. A.

All prior endorsements guaranteed.

UNITED STATES NATIONAL BANK.

98-43 Centralia, Wash. 98-43.

J. W. DAUBNEY, Cashier.

Pay Yourselves.

COFFMAN, DOBSON & CO., Bankers.

98-59 Chehalis, Wash. 98-59 [29]

Exhibit No. 5—Check.

No. 2473.

TREASURER'S OFFICE,

Lewis County.

Chehalis, Wash., 2/4, 1914.

Pay to the order of UNITED STATES NATIONAL BANK OF CENTRALIA \$1747.04, Seventeen Hundred Forty Seven Dollars Four Cents.

To COFFMAN, DOBSON & CO., Bankers, 98-59.

Chehalis, Wash.

B. F. ARNOLD,

County Treasurer.

Endorsed as follows:

Pay to the Order of COFFMAN, DOBSON & CO.,
Chehalis, Wash.

All prior endorsements guaranteed.

UNITED STATES NATIONAL BANK,

98-43 Centralia, Wash. 98-43

J. W. DAUGNEY, Cashier.

Exhibit No. 6—Check.

No. 428.

TREASURER'S OFFICE,

Lewis County.

Chehalis, Wash., Apr. 14, 1914.

Pay to the order of UNITED STATES NAT'L BANK, \$3,598.00, Thirty Five Hundred Ninety Eight Dollars.

To SECURITY STATE BANK,

Chehalis, Wash.

B. F. ARNOLD,

County Treasurer.

By Val. Myer,

Dep.

Endorsed as follows:

Pay to the order of any bank or banker.

Previous Endorsements Guaranteed.

UNITED STATES NATIONAL BANK

98-43 Centralia, Wash. 98-43

J. W. DAUBNEY, Cashier.

Exhibit No. 7—Check.

No. 429.

TREASURER'S OFFICE,

Lewis County,

Chehalis, Wash., Apr. 14, 1914.

Pay to the order of UNITED STATES NATIONAL BANK \$1,765.06, Seventeen Hundred Sixty Five Dollars and Six Cents.

B. F. ARNOLD,

County Treasurer.

By Val. Myer,

Dep.

To SECURITY STATE BANK,

Chehalis, Wash.

Endorsed as follows:

Pay to the order of any bank or banker.

Previous Endorsements Guaranteed.

UNITED STATES NATIONAL BANK.

98-43 Centralia, Wash. 98-43

J. W. DAUBNEY, Cashier. [30]

[Testimony of Samuel M. Jackson, for Plaintiff.]

Samuel M. Jackson was then produced as a witness for the plaintiff, and testified that he had lived in Tacoma for twenty-five years; that his business was banking, the Bank of California, which is in-

(Testimony of Samuel M. Jackson.)

incorporated under the laws of the United States; that he was acquainted with Mr. Gilchrist, formerly vice-president and general manager of the United States National; that the United States National had kept an account with the Bank of California for some five or six years prior to its suspension; that the Bank of California was a correspondent and reserve agent of the United States National. That Plaintiff's Exhibits 3 and 4, being checks in payment of the warrants for \$4,061.67 and \$4,912.41, were deposited by the Centralia Bank with the California Bank on April 16, 1914, and that after these two items were deposited there was to the credit of the United States National Bank with the California Bank on April 16, 1914, \$3,642.20; that these two checks were a part of the deposit of \$19,198.02 made by the Centralia Bank with the Tacoma Bank on the 16th. At the time that the Centralia bank failed on September 19, 1914, it had a credit balance with the Bank of California of \$1,585.36. The account of the Centralia Bank with the Bank of California was reduced by the Centralia drawings and by the California Bank's remittances to them.

On cross-examination the witness testified that the credit balance of the Centralia bank with the Tacoma bank was withdrawn in the ordinary course of business. On April 17, 1915, the credit balance of the United States National with the Bank of California was \$8,444.08; on the 18th, \$6,715.57; on the 20th, \$5,525.19; on the 21st, \$4,882.38; on the 22d, \$2,569.75; on the 23d, \$7,508.24; on the 24th, \$4,804.02;

(Testimony of Samuel M. Jackson.)

on the 25th, \$5,582.97; and on the 27th of April, 1915, the account of the United States National Bank with the Bank of California was overdrawn \$696.15.

Witness said he could not tell what became of the fund without an examination of the records of the bank, except that it went out in the ordinary course of business, that he meant by "ordinary [31] course of business" checking business, the deposit of money, the general or regular business of a bank keeping an account with the California bank.

On recross-examination the witness testified that on April 15, 1914, the United States National Bank's account with the California Bank was overdrawn \$1,953.78.

Witness was handed remittance sheets which were marked for identification, Defendant's Exhibit "B," which remittance sheets showed the charges and withdrawals that were made against the account that the United States National Bank of Centralia had with the Bank of California. Thereupon said remittance sheets were introduced in evidence as Defendant's Exhibit "B."

Defendant's Exhibit "B" (Remittance Sheets of The Bank of California to The United States National Bank of Centralia, from April 14, 1914, to April 28, 1914, both inclusive):

[Defendant's Exhibit "B"—Remittance Sheets of the Bank of California to the United States National Bank of Centralia, from April 14, 1914, to April 28, 1914, both Inclusive.]

THE BANK OF CALIFORNIA.

National Association,

Tacoma, Wash., 4 14 14.

U. S. NATL. BANK,

CENTRALIA, WASH.

Dear Sirs:

We enclose herewith for credit items listed below.

Yours very truly,

S. M. JACKSON,

Manager.

Protest items if marked X.

Wire non-payment of items \$100 or over.

Drawee	X	Amount
98 46		706.10
U		4.65
U		12.35
U		6.81
98 44	X	22.80
98 46		1.08
U		5
U	X	158
U		33
U		24 70
U		38 95
U		43 70
98 44		2
U		13
U		1

98 46	10
U	34 55
U	25 40
	<hr/>
	1143 09

(U. S. National Bank,
Apr. 15, 1914,
Centralia, Wash.)

[32]

(Same heading. Dated 4 15 14.)

Drawee	X	Amount
U	X	75 00
98 44		10 68
U		7 44
98 312		7 43
Do.		34 79
C S Gilchrist Tr		44 28
		<hr/>
		179 62

U. S. National Bank,
Apr. 16, 1914,
Centralia, Wash.

(Same heading. Dated 4 16 14.)

Drawee	X	Amount
U		699 77
U		60
U		95 64
U		23 45
98 44		15 60
98 46	X	200
U		8 11
U		207 26
U		75

(Testimony of Samuel M. Jackson.)

98 312	2 20
Do.	30 96
Do.	10
Do.	25 95
U	3 75
U	5 40
U	25
U	17 45
C S Gilchrist Tr	15 85

1387 74

U. S. National Bank,

Apr. 17, 1914.

Centralia, Wash.

(Same heading. Dated 4 17 14.)

Drawee	X	Amount
U		5
C S Gilchrist Tr	X	208 85
U		60
U		6 40
98 44	X	76 33
Do.		9
U		6 75
U		4 15
U		4 12
U		10
U		25
98 312		25

381 20

U. S. National Bank,

Apr. 18, 1914,

Centralia, Wash.

[33]

(Same Heading. Dated 4 18 14)

Drawee	X	Amount
98 46		131 22
98 44		11 50
C S Gilchrist Tr		29 00
U		40 00
98 44		12 50
98 312		5 00
U		4 00
U		49 50
		<hr/>
		282 72

U. S. NATIONAL BANK

Apr. 20 1914

Centralia, Wash.

(Same Heading. Dated 4 24 14)

Drawee	X	Amount
U	X	53 64
98 46	X	192 26
U		35 75
U		38 25
98 44		16 55
U		92 50
98 46		75
U		12 50
98 46		44 60
98 44		25 00
98 312		10 00
Do.		6 00
Do		4 46

U	44 00
U	18 85
98 46	143 34
U	250 00
	<hr/>
	988 45

U. S. NATIONAL BANK

Apr. 21 1914

Centralia, Wash. [34]

(Same Heading. Dated 4 21 14)

Drawee	X	Amount
98 46		5 00
Do.		149 95
U		3 82
U		28 60
98 46		10 51
Do.		9 52
98 312		6
U		521 33
98 46	X	47 08
98x44		5
U		12 03
.. U	X	48 71
U	X	60
U	X	500
U		9 67
U		6 39
U		287 63
U		17 24
U		103 96
98 312		10 62
Do.		9 33

98 46	32 08
98 312	6 15
U	53 75
U	10
U	5
U	50
U	12 65
U	54 25
	<hr/>
	2 676 27

U. S. NATIONAL BANK

Apr. 22 1914

Centralia, Wash.

(Same Heading. Dated 4 22 14)

Drawee	X	Amount
U		1 75
U		5 25
98 46	X	100
98 312		200
U		50 80
98 312		52 20
U		2
U		14 88
		<hr/>
		426 88

U. S. NATIONAL BANK

Apr. 22 1914

Centralia, Wash. [35]

(Same Heading. Dated 4 23 14)

Drawee	X	Amount
U		4 66
U		5 00

U		13 15
98 312		9 04
98 44	X	76 86
98 46		50 53
U	X	97 61
U	X	136 52
98 46	X	20 18
U		221 25
98 312		50 00
		<hr/>
		684 80

U. S. NATIONAL BANK

Apr. 24 1914

Centralia, Wash.

(Same Heading. Dated 4 24 14)

Drawee	X	Amount
U	X	50 00
98 312		10 75
U		31 30
98 46		140 41
		<hr/>
		232 46

U. S. NATIONAL BANK

Apr. 25 1914

Centralia, Wash.

(Same Heading. Dated 4 25 14)

Drawee	X	Amount
U		100 00
U		18 82
U		17 04
98 46		407 88

	0 00
	0 00
U	496 00
U	3 52
98 46	11 97
	<hr/>
	1 055 23

U. S. NATIONAL BANK

Apr. 27, 1914

Centralia, Wash. [36]

(Same Heading. Dated 4 27 14)

Drawee	X	Amount
U		61 61
U	X	85 25
98 44	X	100 82
98 46		7 50
Do	X	58 39
Do.		13 22
98 312		25
98 46		40 27
98 312		100
Do.		1 35
98 46		10
98 44		5
98 312		8
		<hr/>
		516 41

U. S. NATIONAL BANK

Apr. 28 1914

Centralia, Wash.

(Same Heading. Dated 4 28 14)

Drawee	X	Amount
98 46		476 20
98 44		249 69
U	X	108 00
U		10 00
98 312	.	45 73
Do.		35 34
U		765 81
		<hr/>
		1 690 77

U. S. NATIONAL BANK

Apr. 29 1914

Centralia, Wash.

Witness further testified that the letter "U" on defendant's Exhibit "B" meant checks drawn on the United States National Bank of Centralia and paid by the Bank of California. Witness could not explain the numerals written under the name "Drawee" on these remittance sheets, other than it was a number given to some certain bank; that such withdrawals might be a check or a charge of any nature, that witness was unable to tell what the item was. [37]

[Testimony of Frank A. Hill, for Plaintiff].

FRANK A. HILL, called as a witness on behalf of the plaintiff, testified as follows:

Present residence was in Centralia, Washington. He was an accountant and assistant to the receiver

(Testimony of Frank A. Hill.)

of the United States National Bank, and had been such ever since the 29th September, 1914. At the close of business on February 4, 1914, there was actual cash in the vaults of the United States National Bank, Centralia, amounting to \$65,914.30. The amount of actual cash, including the lawful reserve and bank bills carried with other banks, including the pennies and mutilated currency, at that time to the credit of the bank was \$78,891.80, which sum was made up of gold, gold certificates, silver certificates, legal tender, certificates, dollars and half dollars in the vaults of that bank.

Plaintiff then introduced in evidence interrogatories Nos. 1, 2, 3, 5, 7, 9 and 15, and the answers thereto, which in substance were as follows:

That on or about February 4, 1915, the United States National Bank records showed that the County Treasurer of Lewis County, Washington, gave to the United States National Bank of Centralia a certain check for \$1,747.04, drawn on Coffman, Dobson & Company, which was given in payment of various warrants, a part of which was owned and held by the United States National Bank; that the United States National Bank records showed that this check, together with other checks, was sent to Coffman, Dobson & Co. The total of said checks, including the check for \$1,747.04, aggregated the sum of \$3,329.38, which amount was charged to the account of Coffman, Dobson & Company by the United States National Bank. That the records of the United States National showed that Coffman, Dobson & Co.

(Testimony of Frank A. Hill.)

credited the account of the United States National Bank with this remittance. That the United States National Bank and Coffman, Dobson & Co. kept reciprocal accounts, that is to say, that if the United States National Bank received checks or drafts upon Coffman, Dobson & Co., those checks and drafts would be sent to Coffman, Dobson & Co., and the United States National would charge [38] on its books the amount to Coffman, Dobson & Co. Coffman, Dobson & Co. would credit on their books the amount to the United States National Bank; and if it was a check or draft drawn on the United States National Bank in favor of Coffman, Dobson & Co., the United States National would, upon receipt of it, give Coffman, Dobson & Co. credit, and Coffman, Dobson & Co. would charge the United States National Bank, the balance often alternating first in favor of one and then the other. That the said check for \$1,747.04 was sent to Coffman, Dobson & Co., and credit given as thus outlined, and that at that time the United States National Bank had a credit with Coffman, Dobson & Co., including these checks, aggregating \$3,329.38, of \$5,046.20. That the United States National Bank, according to its records, received from the County Treasurer on or about April 15, 1914, two checks on the Chehalis National Bank aggregating the sum of \$8,974.18; that the bank records further showed that on April 15, 1914, two checks totaling \$5,363.06, drawn on the Security State Bank of Chehalis, were received by the United States National Bank from the County Treasurer of

(Testimony of Frank A. Hill.)

Lewis County, but that the numbers of these checks were unknown; that the United States National Bank charged the checks to the account of the Security State Bank of Chehalis and sent the checks to that bank, including other items totaling \$7,767.22, thereby reducing the credit balance of the Security State Bank in the United States National Bank; that the Security State Bank of Chehalis credited the account of the United States National with this sum of \$7,767.22; that at that time the United States National Bank had no deposit with the Security State Bank, but that the Security Bank had a deposit with the United States National Bank; that these two checks just referred to were not deposited by the United States National with any other bank. That the United States National Bank never had a credit balance with the Security State Bank; that the records of the United States Bank showed, as to all the checks mentioned in the interrogatories, that in the general ledger of the bank's books under [39] date of August 13, 1913, the following entry appears: \$15,506.18.

[Testimony of Ralph S. Stacy, for Plaintiff.]

RALPH S. STACY, a witness on behalf of plaintiff, testified as follows:

That he was president of the National Bank of Tacoma, which position he had occupied for three years and had been in the banking business for about twenty-seven years, that he was familiar with the requirements of the national banking acts as to reserve funds. That in the year 1914 the legal reserve

(Testimony of Ralph S. Stacy.)

consisted of gold coin, gold certificates, silver coin, silver certificates and balances in reserve cities in approved reserve agents. That the balance carried by the United States National Bank of Centralia would be divided in this way. Their legal reserve would be balances carried in other national banks in reserve cities which had been duly approved by the Comptroller, and that any other balances that the bank might carry in other cities would not be legal reserve but actual reserve; thus an account of \$20,000 in the Fidelity Trust Company would not be legal but would be actual reserve; that it was very usual with banks situated as the United States National was to carry reserve which was actual but not legal. That both actual and legal reserve is usually created by remittance checks for credit with some other bank, which are available by draft or by request for shipment of coin; that these reserves were available usually by draft and not by the shipment of coin. That the United States National had a credit balance with their bank along in August, and that it was customary to draw a draft against that credit, and the witness thought such a draft had been sent to Seattle, but there was no transfer of bullion at that time and it was a mere exchange of credit balances. That the custom was, if the Centralia Bank should draw a draft for \$10,000 on one of its reserve banks, they would naturally make a corresponding credit [40] on their books; and if one of the reserve agents sent a remittance letter including a lot of checks to the United States National Bank, the

United States National would credit its account. If a bunch of checks were sent to Centralia and if they were all good, the Centralia Bank would credit the other bank's account on their books, that it was customary, if a draft should be drawn by the United States National on his bank or on a reserve agent and paid by him or the reserve agent, that it would be charged to the account of the United States National and held by him as an entry until the end of the month and then sent back, just the same as anyone's checks are sent back at the end of the month, with a statement. That there would be a corresponding entry on the books of the United States National. On cross-examination witness testified that the relation between the United States National and its correspondent or reserve bank would be simply that of depositor and creditor, just the same as any ordinary customer of a bank in the deposit of money, and that it was simply a question of balances, debits and credits. The lawful reserve of banks situated as the United States National could be created either by carrying the actual gold coin in its vaults or by carrying 6/15ths of its necessary reserve in the form of balances in what was known as reserve centers, that these balances with reserve centers meant that the United States National was simply a depositor in such reserve centers. That in addition to this lawful reserve, the bank might have actual reserve, which might consist either of gold in its vaults in excess of 15% or it might consist of moneys other bankers might owe it.

**[Testimony of Frank A. Hill, for Plaintiff
(Recalled).]**

FRANK A. HILL, again introduced as a witness on behalf of plaintiff, testifies that he had made a tabulation of the lowest amount of cash and cash items on hand and the balance in reserve agents and the balances in banks not reserve agents had by the United States National Bank, which tabulation was thereupon introduced [41] in evidence as Complainant's Exhibit No. 8, and which exhibit is as follows:

**[Complainant's Exhibit No. 8—Tabulation of
Lowest Amount of Cash and Cash Items in
Vaults.]**

**UNITED STATES NATIONAL BANK OF CEN-
TRALIA, WASH.**

Lowest Amount of Cash and Cash Items in Vaults, Sept. 17th, 1914,		
\$23,527.86		\$23,527.86
Cash	\$22,464.30	
Cash Item.....	1,063.56	
Balance with Reserve Agent Sept. 17th, 1914		\$45,613.94
Balance with Banks not Reserve Agents, Sept. 17th, 1914.....		21,486.16
		<hr/>
Total		\$90,627.96
Lowest Balance with Reserve Agents, Mar. 6th, 1914		
		21,035.38

Cash:

Actual Cash in Vaults.	\$55,307.35	
Cash Items	11,594.72	66,902.07
Balance with Banks not Reserve Agents		18,030.80
		<hr/>
Total		105,986.25

Lowest Balance in Banks not Reserve

Agents, June 25, 1914	6,623.48
-----------------------------	----------

Cash:

Actual Cash in Vaults	\$40,556.75	
Cash Items	7,402.14	47,958.89
Balance with Reserve Agents		141,928.21
		<hr/>
Total	\$196,510.58	

The Lowest Amount of Cash and Cash
Items on Hand and Balances in Re-

serve Agents, Sept. 16, 1914.	71,971.52
Balance in Banks not Reserve Agents	29,600.95
	<hr/>
	\$101,572.47

The Lowest Amount of Cash and Cash
Items on Hand and Balances with
Banks not Reserve Agents, Sept. 17,
1914

	45,014.02
Lowest Amount of Cash and Cash Items on Hand and Balances in All Banks, Sept. 17, 1914.....	90,627.96

[42]

That the lowest amount, of the above aggregate sums, that is, actual cash, cash items, balances with reserve agents, and balances with banks not reserve agents,

(Testimony of Frank A. Hill.)

after February 4, 1914, to date of closing, was \$90,627.96, distributed as follows:

Actual cash.....	\$22,464.30
Cash items.....	1,063.56
Balance with reserve agents.....	45,613.94
Balance with banks not reserve agents	21,486.16

When the bank closed there was actual cash on hand of \$27,899.81, and there were cash items of \$4,539.63. The balance with bank's reserve agents \$45,613.94, the balance with banks not reserve agents \$21,486.16, making a total of \$90,627.96. On cross-examination the witness testified that cash items were made up of checks on individuals, that none of these items were actually cash, that they might be represented by running expense of the bank or by various choses in action, some of which might be collected and some of which could not.

It was admitted that the plaintiff McCormick was a citizen of the Western District of Washington.

[Testimony of George B. Frye, for Plaintiff.]

GEORGE B. FRYE, produced as a witness on behalf of plaintiff, testified as follows:

That he lived in Tacoma, was employed by the plaintiff, Mrs. McCormick, as a bookkeeper and to some extent to look after her investments; that he had examined the warrants which she had purchased from the United States National and had listed them at the time of purchase, and that he was looking after the collection of them; that some week or ten days before the bank closed he had a conversation

(Testimony of George B. Frye.)

with Mr. Gilchrist, in which Gilchrist stated in effect that a part of the warrants were being called, or being paid, at that time, or were about to be paid; that prior to that time he had had no conversation with Gilchrist relative to the payment of the warrants, but he had called up the bank six weeks before that and was notified that the warrants were not paid. He did not know prior to the bank's failure that the warrants had been called and the bank paid. [43]

The defendant thereupon introduced in evidence a letter written by the plaintiff McCormick to the Bank Examiner in charge of the United States National under date of September 24, 1914, in which the plaintiff recited the purchase of these warrants from the bank, and that they were returned by her to the bank for collection, to be collected by the bank and remitted to her, less the interest accruing to the bank under the agreement, up to August 18, 1913 (Defendants' Exhibit "C").

It was admitted that the assets of the bank were insufficient to pay all creditors in full, and that after an assessment of 100% had been levied upon the capital stock of the bank and upon all stockholders, that the assets would not be sufficient to pay creditors in full.

Defendant then introduced in evidence (Defendant's Exhibit "D") various bills of complaint pending in the United States District Court for the Western District of Washington, Southern Division, the substance of which bills was as follows:

1. City of Centralia, a municipal corporation, vs.

(Testimony of George B. Frye.)

United States National Bank and A. R. Titlow, Receiver, Equity No. 25, in which the plaintiff seeks to establish a preferred claim against the assets of the bank in the sum of \$44,553.09, representing the proceeds of certain city bonds which were deposited with the bank in July, 1914. Trust in favor of plaintiff asserted on the ground that the bank had failed to furnish the bond required by law from depositories of city funds.

2. Continental & Commercial National Bank of Chicago, a corporation, vs. A. R. Titlow, Receiver, and United States National Bank, Equity No. 38, in which plaintiff seeks to establish a preferred claim against the assets of the bank in the sum of \$5,166.67, representing the proceeds of a note alleged to have been forwarded to the United States National Bank in August, 1914, for collection and remittance. Complaint alleges bank collected but failed to remit.

3. Frank P. McKinney as Receiver of Olympia Bank & Trust Company vs. A. R. Titlow, Receiver, Equity No. 32. Suit for \$56,050, [44] of which \$36,550 is alleged to be a preferred claim, on the ground that one Hayes, the cashier of the Olympia Bank & Trust Company, transferred that amount to the United States National in August, 1914, in order to deceive the United States National Bank Examiner; that the United States National Bank promised to return this fund as soon as the United States National Bank Examiner had inspected the United States National, but that no part of the amount has been returned to the Olympia Bank.

(Testimony of George B. Frye.)

4. Nicholas V. Petrinovich vs. A. R. Titlow, Receiver, Equity No. 37. Complaint alleges plaintiff deposited check for \$150 on September 15, 1914, with the United States National Bank for collection only; that collection was made and the bank has the money but refuses to pay plaintiff. Preferred claim asserted.

5. John E. Sundquist vs. A. R. Titlow, Receiver of United States National Bank, et al., No. 1693. Preferred claim for \$1296 asserted against the receiver. Complaint alleges that amount deposited with the United States National Bank on August 31, 1914, for a special purpose, namely, to pay a certain mortgage due from the defendant Walter Gustafson to the defendant Izella J. Smith; that the mortgage was not paid nor the money or any part of it returned to the plaintiff. Decree for plaintiff for \$1296 and costs entered February 15, 1915. [45]

Defendant then introduced in evidence interrogatory No. 8 and the answer thereto, which in substance was that the check of the County Treasurer, which was given in part payment of these warrants which went to the bank of Coffman Dobson & Co., was deposited in the bank of Coffman Dobson & Co., along with other checks, and all were credited to the account of the United States National Bank; that between the time of the sending of that check to Coffman Dobson & Co. and the closing of the United States National Bank, the credit of the latter bank with Coffman Dobson & Co. was naturally wiped out,

(Testimony of George B. Frye.)

and the credit of the United States National Bank in favor of Coffman Dobson & Co. reached on April 14, 1914, the sum of \$20,169.97, which was the lowest amount of credit the United States National Bank had with Coffman Dobson & Co. This credit being in favor of Coffman-Dobson & Co. to that amount, there were no offsets to this, as the United States National Bank's Credit with Coffman Dobson & Co. was entirely wiped out by the ordinary debits and credits in exchange of business, and a charge against the United States National Bank in favor of Coffman Dobson & Co. had accumulated to the extent of \$20,169.97.

Defendant then introduced in evidence interrogatory No. 9 and the answer thereto, which in effect was that on or about April 15, 1914, the United States National Bank, according to the records, received from the Treasurer of Lewis County these two checks, aggregating \$8974.18, drawn on the Chehalis National Bank.

[Testimony of Frank A. Hill, for Defendant (Recalled)].

FRANK A. HILL, who had previously testified on behalf of the plaintiff, was then called as a witness on behalf of the defendant and testified that Plaintiff's Exhibit No. 5, which was a check of [46] the Treasurer of Lewis County drawn on Coffman Dobson & Co., and payable to the order of the United States National Bank, for \$1,747.04, was received by the United States Bank in exchange for the face and interest of five warrants, four of which warrants are

(Testimony of A. R. Titlow.)

enumerated in the third paragraph of the complaint, and the fifth warrant was one for \$87.50, which was the property of the United States National Bank. This check was sent by the United States National Bank in its remittance of February 6 to Coffman Dobson & Co., which remittance, including this item or check in question and other items, amounted to \$3,329.38.

The defendant then introduced in evidence the remittance sheet testified to by the witness, being Defendants' Exhibit "E," and which is as follows:

[Defendant's Exhibit "E"—Remittance Sheet.]

Remittance Sheet When Credited.

United States National Bank.
Centralia, Wash., 2-6 191—

Coffman Dobson Co.,
Chehalis.

The United States National Bank

PAID Feb. 11, 1914.

Centralia, Wash.

We enclose for collection and credit.
Items marked X no protest. Items of
\$10 and under no protest. Please
wire advice of non-payment items
\$100 or over.

Respectfully,
J. W. DAUBNEY, Cashier.

Date.	No.	Drawn by.	Favor of.	Last Endorser.	Amount.
4	1228	J. M. Jensen	Gas		.50
3	973	Sister M. Ambrose	"		5.45
2	741	K. A. Ludwig Co.	"		6.83
3	2376	D. W. Bush	"		1.98
5	424	W. J. Botsford	"		2.64
5		C. W. Hanson	"		3.33
5	20254	Doty L. & Shg.	Pac. T. & T.		16.45
3		Bernice Gabe	Gas		3.96
4		Mrs. W. H. Cory	"		.50
2	488	S. C. White	"		2.84
4		Leona Tramhill	"		2.81
4		Sam Johnson	Mrs. S. J.	Gas	10.
6	281	E. J. Gleason	Stackhouse Piano		10.
4	2473	Arnold, Treas.	Us		1747.04
				FWD.	1515.05

Just before this remittance was made to Coffman Dobson & Co., and at the close of business the day previous to sending that remittance, Coffman Dobson & Co. owed the United States National Bank a balance of \$3,180.79. After this remittance of \$3,329,-38, the state of the account between the two banks was that the Coffman Dobson & Co. owed the United States National Bank a balance of \$5,046.20. From that time until the close of business on February 14, 1914, the state of the account between these two banks was as follows: At the close of business February 7, 1914, Coffman Dobson & Co. owed the United States National \$6,053.43. The 8th was Sunday. On the 9th, \$1,821.59; on the 10th, \$798.68; on the 11th, \$1,067.53; on the 13th, \$2,264.33; on the 14th, the United States National Bank owed Coffman Dobson & Co. a balance of \$489.80. That was on February 14, 1914. That during this period all checks which Coffman Dobson cashed on the United States National and other Centralia banks were charged to the account of the United States National by Coffman Dobson, and all checks which it, the United States National, cashed on them, were charged to their account by the United States National; that the credit balance which the United States National had with Coffman Dobson up to February 14 was wiped out by the payment of the creditors and depositors of the United States National bank.

Witness was then shown Plaintiff's Exhibits 6 and 7, being respectively the checks drawn by the County Treasurer of Lewis County, on the Security State

Bank of Chehalis to the order of the United States National Bank of Centralia, one being for \$3,598.00 and the other for \$1,765.06, both dated April 14, 1914. The witness testified that the records of the United States National Bank disclosed that these two checks were sent to the United States National Bank by the County Treasurer of Lewis County on April 15, and on that day were forwarded to the Security State Bank of Chehalis by the United States National in remittance including these two checks and other checks, which remittance aggregated \$7,767.22, this remittance being [48] charged to the account of the Security Bank. Thereupon defendant introduced in evidence the remittance sheet referred to by the witness, which was marked Defendant's Exhibit "F," and which is as follows:

[Defendant's Exhibit "F"—Remittance Sheet.]

Remittance Sheet When Credited.

United States National Bank.
Centralia, Wash., Apr. 15, 1914,
Security State,
Chehalis.

The United States National Bank.

PAID Apr. 17, 1914.

Centralia, Wash.

We enclose for collection and credit.
Items marked X no protest. Items of
\$10 and under no protest. Please
wire advice of non-payment items
\$100 or over.

Respectfully,

J. W. DAUBNEY, Cashier.

Date.	No.	Drawn by.	Favor of.	On.	Amount.
14	429	Treas. Office	Us	You	1765.06
14	428	"	"	"	3598.00
14	426	"	"	"	2392.98
11	227	Table Supply Co.	Jas. & Jas.	"	11.18
					<hr/> 7767.22

At the time of this remittance, the Security State Bank of Chehalis was a creditor of the United States

ness on April 14, which was the day just prior to the sending of this remittance, the United States National owed the Security Bank a balance of \$13,476.04. After this remittance, as shown by Defendants' Exhibit "F," was sent to the Security State Bank, the United States National still owed the Security Bank \$5,985.99. Witness's attention was thereupon called to Exhibits Nos. 3 and 4, which were respectively the checks drawn by the treasurer of Lewis County on April 14, 1914, on the Chehalis National Bank, payable to the order of the United States National Bank, one being for \$4,061.77, and the other being for \$4,912.41. The witness testified that these two checks were received by the United States National on or about April 15, and were forwarded by that bank to the Bank of California in remittance including other checks, which totaled \$19,198.02. Defendant then introduced the original [49] remittance sheet showing this remittance, which was marked Defendant's Exhibit "G," and which is as follows:

Just prior to this remittance, and at the close of business on April 14, 1914, the state of the account between the United States National and the Bank of California was that the Bank of California owed the United States National a balance of \$1,305.01. The remittance was sent on the 15th. The balance due the United States National by the Bank of California at the close of business on April 15, was \$11,837.49; on the 16th, \$16,617.87; on the 17th, \$14,198.76; on the 18th, \$13,391.95; on the 20th, \$3,070.37; on the 21st, \$10,806.91; on the 22d, \$5,745.25; on the 23d, \$13,046.41; on the 24th, \$8,641.24; on the 25th, \$3,567.35; on the 27th, \$592.40; on the 28th of April, 1914, this account was overdrawn, and the United States [50] National Bank of Centralia owed the Bank of California a balance of \$6,469.28. When the United States National sent a remittance, it would be posted on the books of the United States National the day it was sent by that bank, and the posting on the books of the Bank of California would probably occur the next day; that in the balancing and interchange of debits and credits, the sending bank would credit on the day it was sent and the receiving bank would credit on the day it was received. That the balance that the United States National had with the Bank of California between April 14 and April 27, 1914, which was the day on which the account was overdrawn, was used by the United States National Bank to pay the creditors of that bank. That whenever the Bank of California honored checks that were drawn on banks in Centralia, they were charged to the account of the United States National, and when

the United States National drew drafts on the Bank of California, credit was given to the Bank of California for the amount of those drafts; that if the United States National desired to pay some one in Chicago or New York \$5,000 and drew a draft on the Bank of California and sent it to Chicago or New York, it would naturally reduce the balance that the United States National had with the Bank of California.

Witness further testified that an assessment of 100% on all stockholders had been made in the bank; that the assets of the trust would be insufficient to pay creditors in full.

On cross-examination witness testified that the United States National's account with Coffman Dobson was overdrawn on April 14, 1914; that on that date the amount of actual cash in the vaults of the United States National was \$66,381.40; that the amount of cash items on that date was \$4,654.85.

Witness further testified that he had the original remittance sheets which showed how the credit with Coffman Dobson & Co. was exhausted by the United States National, that these remittance sheets showed [51] the payment of checks by Coffman Dobson which were drawn on the United States National, on the Tenino, Union Loan & Trust Company, Field & Lease, and Farmers' & Merchants' Bank; that none of these checks or items shown in these remittance sheets were drawn on reserve agents of the United States National.

Witness was then asked if he knew how many checks or drafts that were honored by the Bank of

California, which caused the reduction of the credit balance of the United States National Bank to an overdraft on April 28, 1914, were drawn on reserve agents of the United States National Bank of Centralia. Witness answered that none of the checks shown in these remittance sheets, and which were honored by the Bank of California, were drawn on reserve agents of the United States National Bank; that of course the drafts which were drawn on the Bank of California were drawn on a reserve agent, because that bank was a reserve agent of the United States National; that the drafts so drawn by the United States National on the Bank of California were used in paying creditors of the first bank; for instance, the National Bank of Tacoma, on April 13 honored a number of checks drawn on the United States National Bank of Centralia and other banks in Centralia, and forwarded them to the United States National Bank of Centralia. In exchange for this remittance or collection by the National Bank of Tacoma, the United States National sent back to the National Bank of Tacoma a draft drawn on the Bank of California in payment of these items. The amount of this draft, which was dated April 15, was \$6,340.55. As to the other drafts, witness said that they were drawn in favor of the National Bank of Tacoma, The Fidelity Trust Company of Tacoma, Field & Lease, D. J. Williams, a small one of \$6.00, D. J. Williams for \$27.50, one Carrigan for \$250.00, Coffman Dobson & Company, \$8,514.00, which completed the list of the drafts as shown in these remittance sheets. [52]

Witness further testified that the United States National drew no drafts on Coffman Dobson & Co.; that the United States National and the Security State Bank of Chehalis did not carry reciprocal accounts, because the Security Bank always kept a balance with the United States Bank, and that when the two checks which witness had first testified to were sent by the United States National to the Security Bank, it simply reduced the amount that the United States National owed the Security.

On redirect examination, witness testified that as to answer to interrogatory No. 8 he desired to make a correction, that the interrogatory stated that the lowest amount of credit which the United States National Bank of Centralia had with Coffman Dobson & Co., was reached on April 14, at which time the United States National Bank of Centralia owed Coffman Dobson & Co. \$20,169.97; that while this was true and that that was the lowest amount, yet the United States National owed Coffman Dobson \$489.-80 in Feb. 14th, which was the first time that the United States National began to owe them after the checks were sent down to them.

On recross-examination witness testified that the amount of cash in the vaults of the United States National Bank of Centralia at the close of business on February 14, 1914, was \$66,381.40; cash items on hand at that date, \$4,654.85; balance in reserve agents at that time, \$50,295.18; amount of balance with banks not reserve agents on that date, \$17,404.-98. On April 15, 1914, the United States National had actual cash in its vaults of \$53,366.70; cash items

\$10,787.02; balance with reserve agents, \$80,911.78; balance with banks not reserve agents, \$32,935.91; making a total of \$178,011.41. On April 28, 1914, the date on which the credit of the U. S. National Bank of Centralia with the Bank of California was exhausted, the amount of actual cash in the vaults of the United States National Bank was \$34,097.05; cash items, \$22,143.68; balance with reserve agents, \$50,012.17; balance with banks not reserve agents, \$32,696.22, making a total of \$138,949.12. [53]

Thereupon plaintiff introduced in evidence Plaintiff's Exhibit No. 9, which is as follows:

[Plaintiff's Exhibit No. 9—Tabulation of Amount of Money in Vaults.]

**UNITED STATES NATIONAL BANK OF
CENTRALIA, WASHINGTON.**

Feb. 14, 1914.

Amount of actual cash in vaults of	
bank.....	\$ 66,381.40
Amount of cash items on hand.....	4,654.85
Amount of Balance in Reserve	
Agents.....	50,295.18
Amount of Balance with Banks not	
reserve agents,.....	17,404.98
	<hr/>
Total.....	\$138,736.41

April 15th, 1914.

Amount of actual cash in vaults of	
bank.....	\$ 53,366.70
Amount of cash items on hand.....	10,787.02

Amount of Balance with Reserve	
Agents.....	80,911.78
Amount of Balance with Banks not	
Reserve Agents,....	32,935.91
<hr/>	
Total.....	\$178,011.41

April 28th, 1914.

Amount of actual cash in vaults of	
bank....	\$ 34,097.05
Amount of cash items on hand.....	22,143.68
Amount of Balance with Reserve	
Agents.....	50,012.17
Amount of Balance with Banks not	
Reserve Agents,...	32,696.22
<hr/>	
Total.....	\$138,949.12

On redirect examination witness testified that the United States National Bank did a general banking business subsequent to February 14, 1914, and up to and including September 19, 1914, and as such received deposits in the ordinary course of business; that from July 29 down to the time that the bank failed, there was deposited [54] in actual cash in that bank approximately \$129,000.

[[Testimony of A. R. Titlow, for Plaintiff.]]

A. R. TITLOW, a witness produced on behalf of plaintiff, testified that he was the present receiver of the United States National Bank. That his predecessor was C. A. Snowden, whose predecessor in turn was one Chapman; that there had been collected by the various receivers of the trust up to the present time about \$200,000. [55]

Order (Settling Statement of Evidence).

This matter coming on regularly upon stipulation of all parties that the statement of the testimony and evidence in this case may be certified as to true and correct; now on this day, I, Edward E. Cushman, Judge of the above-entitled court, and the Judge before whom the above case was tried, do hereby certify in accordance with said stipulation, of all parties on file herein, that the foregoing is a true and correct and complete statement of all the evidence essential to the decision of the case presented by the appeal of the defendants from the judgment entered in favor of the plaintiff. That the foregoing statement is true, complete and properly prepared and I do hereby approve the same as the statement of the evidence in such matter for the purpose of said appeal, and do hereby order that the same become a part of the record for the purpose of the appeal.

Dated September 11th, 1915.

EDWARD E. CUSHMAN,
Judge.

(Filed Sept. 11, 1915.) [56]

[Title of Court and Cause.]

Petition for Appeal.

Come now the defendants A. R. Titlow, Receiver of the United States National Bank of Centralia, and the United States National Bank of Centralia and feeling themselves aggrieved by the final decree entered in the above-entitled court and cause on the 2d day of August, 1915, do hereby appeal from said

decree to the United States Circuit Court of Appeals for the Ninth Circuit, for the reasons specified in the assignment of errors which is filed herewith and pray that this appeal may be allowed and that a transcript of the record proceedings and papers upon which said decree was based, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Ninth Circuit, sitting at San Francisco, California.

FREDERICK BAUSMAN,
R. P. OLDHAM,
R. C. GOODALE,

Solicitors for Defendants.

(Filed Aug. 23, 1915.) [57]

[Title of Court and Cause.]

Assignment of Errors.

Now on this 23d day of August, come the defendants, A. R. Titlow, Receiver of the United States National Bank of Centralia, by their solicitors Frederick Bausman, R. P. Oldham and R. C. Goodale, and say that the decree entered in the above cause on the 15th day of February, 1915, is erroneous and unjust to them:

I.

Because the District Court erred in finding and adjudging that the deposit of plaintiff's warrants with the defendant United States National Bank of Centralia for collection and remittance was sufficient to establish a trust relation between plaintiff and the defendant bank on the bank's failure to remit the proceeds of such warrants when collected, and not merely a relation of debtor and creditor.

II.

Because the District Court erred in ordering and directing the defendant A. R. Titlow, Receiver of the United States National Bank of Centralia, to pay to the plaintiff the sum of Ten Thousand Fifty-four and 69/100 Dollars or any other sum as a preferred claim out of the assets of the United States National Bank of Centralia. [58]

III.

Because the District Court erred in rendering a decree allowing a preferred claim to the plaintiff in the sum of \$10,054.69, which decree is contrary to the testimony and against the law because the equities of the case entitled the defendants to a decree of dismissal.

WHEREFORE the defendants pray that the decree be reversed and the District Court be directed to dismiss the bill and for such other relief as the defendants are entitled to in equity.

FREDERICK BAUSMAN,

R. P. OLDHAM,

R. C. GOODALE,

Solicitors for Defendants.

(Filed Aug. 23, 1915.) [59]

[Title of Court and Cause.]

Order Allowing Appeal.

The above-named defendants having heretofore filed their assignment of errors and petition for appeal from the final decree herein and it appearing that the defendant has been directed by the Comp-

troller of the Currency of the United States of America to take such appeal; now, therefore, it is hereby

ORDERED that the petition for appeal be granted and the appeal is hereby allowed. It is

FURTHER ORDERED that the defendants shall not be requested to furnish any security upon said appeal.

Dated this 23d day of August, 1915.

EDWARD E. CUSHMAN,
Judge.

(Filed Aug. 23, 1915.) [60]

[Title of Court and Cause.]

**Certificate (of Comptroller of the Currency)
Directing Appeal.**

To A. R. Titlow, Receiver of the United States National Bank of Centralia, and United States National Bank of Centralia:

You are hereby directed to appeal to the Circuit Court of Appeals for the Ninth Circuit from the judgment of the District Court for the Western District of Washington, Southern Division, entered in the above-entitled cause on August second, 1915.

WITNESS the Honorable John Skelton Williams, Comptroller of the Currency, this 23d day of August, 1915.

JOHN SKELTON WILLIAMS,
Comptroller of the Currency.

[Seal]

By W. J. Fowler,
Acting Comptroller.

(Filed Aug. 30, 1915.) [61]

[Title of Court and Cause.]

Notice of Filing Defendants' Proposed Statement of Evidence.

To Anna E. McCormick, Plaintiff, and Hayden, Langhorne & Metzger, Esquires, her Attorneys:

You will please take notice that we have on this 23d day of August, 1915, lodged in the office of the clerk of the above-named court for your examination the statement of the evidence herein proposed by the defendant A. R. Titlow, Receiver of the United States National Bank to be included in the record on appeal in this cause.

AND YOU WILL PLEASE TAKE NOTICE that on the 3d day of September, 1915, at 10 o'clock A. M. at the courthouse of the above-named court in Tacoma, Washington, we will ask the court or Judge to approve the statement hereinbefore mentioned, a copy of which is herewith served upon you.

BAUSMAN, OLDHAM & GOODALE,
Solicitors for the Defendant A. R. Titlow, Receiver
of the United States National Bank of Centralia.

We hereby admit service of the above notice and acknowledge the receipt of a copy of defendants' proposed statement of evidence this 23d day of August, 1915.

HAYDEN, LANGHORNE & METZGER,

Solicitors for Plaintiff.

(Filed Aug. 23, 1915.) [62]

**[Certificate of Clerk U. S. District Court to
Transcript of Record.]**

United States of America,
Western District of Washington,—ss.

I, Frank L. Crosby, Clerk of the United States District Court for the Western District of Washington, do hereby certify and return that the foregoing pages numbered from 1 to 62 inclusive, constitute a full, true and correct transcript of the record and proceedings in the case of Anna E. McCormick vs. A. R. Titlow, Receiver of the United States National Bank of Centralia, and the United States National Bank of Centralia, No. 24—E. lately pending in this court, as required by the praecipe of counsel filed in said cause, as the originals thereof appear on file in this court, at the City of Tacoma, in the District aforesaid.

I further certify and return that I hereto attach and herewith transmit the original Citation.

I further certify that the following is a full, true and correct statement of all expenses, costs, fees, and charges incurred and paid in my office, by and on behalf of the appellant herein, for making the record, certificate and return to the United States Circuit Court of Appeals, for the Ninth Circuit, in the above-entitled cause, to wit:

Clerk fees (Sec. 828 R. S. U. S.) for	
record, certificate and return,	
151 folios @ 15¢ ea.....	\$22.65
Certificate of Clerk to Transcript, 3	
fo. @ 15¢.....	.45
Seal to said Certificate.....	.20

ATTEST my hand and the seal of the United States District Court for the Western District of Washington, at Tacoma, [63] this 15th day of September, A. D. 1915.

[Seal]

FRANK L. CROSBY,
Clerk.

By E. C. Ellington,
Deputy Clerk. [63½]

*In the District Court of the United States for the
Western District of Washington, Southern Di-
vision.*

IN EQUITY—No. —.

ANNA E. McCORMICK,

Plaintiff,

vs.

A. R. TITLOW, as Receiver of the UNITED STATES NATIONAL BANK OF CENTRALIA, and the UNITED STATES NATIONAL BANK OF CENTRALIA,

Defendants.

Citation on Appeal—(Original).

United States of America to ANNA E. McCORMICK, Plaintiff, Greeting:

You are hereby notified that in the above-entitled proceeding had in the United States District Court for the Western District of Washington, Southern Division, an appeal has been allowed to the defendants A. R. Titlow, Receiver of the United States National Bank of Centralia, and the United States National Bank of Centralia to the United States

Circuit Court of Appeals for the Ninth Circuit from the final decree entered in said cause, and you are therefore hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Ninth Circuit at the City of San Francisco in the State of California within thirty days from the date of this citation, to show cause, if any there be, why the said final decree appealed from should not be corrected and speedy justice done the parties in that behalf.

WITNESS the Honorable EDWARD DOUGLASS WHITE, Chief Justice of the United States this 23d day of August, 1915.

[Seal]

EDWARD E. CUSHMAN,

Judge. [64]

Copy of the within citation received and due service of the same acknowledged, this 23d day of August, 1915.

HAYDEN, LANGHORNE & METZGER,

Attorneys for Plaintiff.

[Endorsed]: In Equity. No. ——. In the District Court of the United States for the Western District of Washington, Southern Division. Anna E. McCormick, Plaintiff, vs. A. R. Titlow, Receiver, et al., Defendants. Citation. Filed in the U. S. District Court, Western Dist. of Washington, Southern Division. Aug. 23, 1915. Frank L. Crosby, Clerk. By F. M. Harshberger, Deputy.

[Endorsed]: No. 2653. United States Circuit Court of Appeals for the Ninth Circuit. A. R. Titlow, as Receiver of the United States National Bank of Centralia, and the United States National Bank of Centralia, Appellants, vs. Anna E. McCormick, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Western District of Washington, Southern Division.

Filed September 17, 1915.

F. D. MONCKTON,

Clerk of the United States Circuit Court of Appeals
for the Ninth Circuit.

By Paul P. O'Brien,

Deputy Clerk.

